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Statement of the Case.

exceptions considered was due to no fault of the appellee, but solely to the conduct of those then representing the interests of the estate. It is a doubtful suggestion that an equity could be founded upon this. Certainly it is an inadequate ground for the intervention of equity to enforce forfeiture of a claim that could not be defeated, if at all, except by a most technical application of the law, and on the assumption that the state court did not know the law of the State. We shall not speculate upon that point, beyond saying that we see no reason to doubt that the state court was right, *Bergfors v. Caron*, 190 Massachusetts, 168, and cases in 27 Cyc. 85, 87, and 20 Am. & Eng. Encyc. of Law, 2d ed., 366-368, as we are satisfied that substantial justice has been done. Some subordinate matters of detail were argued but they do not seem to us to need mention; the whole strength of the case lay in the matter of which we have disposed.

Decree affirmed.

UNITED STATES *v.* MOIST.

ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR
THE NORTHERN DISTRICT OF ILLINOIS.

No. 378. Submitted October 22, 1913.—Decided January 5, 1914.

Where it does not appear that the judgment sustaining a demurrer to the indictment turned upon any controverted construction of the statute, this court has not jurisdiction to review under the Criminal Appeals Act of March 2, 1907.

In this case as it does not appear upon what ground the court below acted in sustaining the demurrer the writ of error is dismissed.

THE facts are stated in the opinion.

Mr. Assistant Attorney General Denison for the United States.

Mr. Roy D. Keehn for defendant in error.

MR. JUSTICE HOLMES delivered the opinion of the court.

This is an indictment under § 215 of the Criminal Code of March 4, 1909, c. 321, 35 Stat. 1130, for placing a letter in the post-office for delivery by the post-office establishment for the purpose of executing a scheme to defraud. The scheme alleged was to send out puzzle pictures, advertising as a prize for the neatest correct answer a credit order for \$350 on a certain piano, one for \$300 for the next neatest, and others for \$200 for correct answers. Persons answering were to be told that they were entitled, for instance, to an order for \$200 on a piano sold the world over for \$300, which would cost them \$75 cash with the order. The credit was to be a pretense, as the piano to be delivered was to be one of a retail price not exceeding the cash received. It was not alleged that the piano was to be worth less than the cash paid, but, as is manifest, people were to be led into the dealing by the delusive apparatus of a promise known to be false when made, *Durland v. United States*, 161 U. S. 306, and false statements as to the value of the piano bought. The indictment was demurred to and the demurrer was sustained.

It will not be necessary to decide whether the facts alleged show a scheme to defraud, since it does not appear on what ground the court acted. As was said in *United States v. Carter*, ante, pp. 492, 494: "there is nothing in the record showing any request made to the trial court for an expression of opinion in such form as to manifest clearly whether its action proceeded upon a construction of the statute or merely upon the meaning which was given to the indictment." As it does not appear that the judgment

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Syllabus.

turned upon any controverted construction of the statute, the writ of error must be dismissed in this case as in that. It is unnecessary to consider whether every determination concerning the common law of fraud taken for granted by the act would be a decision based upon the construction of the statute, within the meaning of the act of March 2, 1907, c. 2564, 34 Stat. 1246.

Writ of error dismissed.

RAINEY v. W. R. GRACE & COMPANY.

CERTIFICATE FROM THE CIRCUIT COURT OF APPEALS FOR
THE NINTH CIRCUIT.

No. 119. Submitted December 9, 1913.—Decided January 5, 1914.

A statute, the evident purpose of which is to save expense in litigation, will be construed in the light of this manifest purpose.

Repeals by implication are not favored and only in cases of clear inconsistency will a later act be held to repeal an earlier one on the same subject, but if there is clear inconsistency, as in this case, the earlier act cannot stand. *King v. Cornell*, 106 U. S. 395.

Even if it might be true that the earlier act prescribed the better rule, where Congress having full authority has acted it is the duty of the courts to enforce the legislation with a view of effecting the purpose for which it was enacted.

When the appellant in a cause in admiralty causes to be printed and presented to the Circuit Court of Appeals under the act of February 13, 1911, printed copies of the apostles on appeal, each of which contains a printed index of the contents thereof and is prepared and printed under a rule of the lower court adopted in pursuance of the said act, the Circuit Court of Appeals is authorized to hear and determine the cause on such copies and to dispense with the requirement of the payment of fees to its clerk by the appellant as prescribed by its rules and which are the same as those prescribed by this court under the act of February 19, 1897.

The first section of the act of February 13, 1911, sets aside by implica-